

**EXECUTIVE COMMITTEE MEETING
NOVEMBER 14, 2003**

Minutes Approved at the January 9, 2004 Meeting

Present: John Sanchez, ARLINGTON; John Sullivan, BOSTON; Ed Sullivan, CANTON; William Hadley, LEXINGTON; Katherine Haynes Dunphy, MILTON; Lou Taverna, NEWTON; Jay Fink, QUINCY; Ted McIntire, READING.

Also in attendance: Andrew Pappastergion and Joseph Foti, MWRA BOARD OF DIRECTORS; Joseph Favaloro, Cornelia Potter, Ryan Ferrara and Mary Ann McClellan, MWRA ADVISORY BOARD STAFF.

I. Approval of the October 10, 2003 Minutes of the Executive Committee

The meeting, held at the Advisory Board office, was called to order by Chairman Katherine Haynes Dunphy at 8:32 a.m. A Motion was made **TO APPROVE THE OCTOBER 10, 2003 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

II. Action Item: Joint Sager Electronics/J. M. Perrone Co., Inc. of Hingham, Wastewater System Expansion Requests for a Sewer Service Connection to the Town of Weymouth

Joe Favaloro stated that Sager Electronics/J. M. Perrone Co., Inc. of Hingham have applied for a connection to MWRA's sewer system through Weymouth for 4,000 gallons. The Operations Committee approved this expansion request last December, with the understanding that it must get through the Legislative process as well. The legislative request is now in Senate Ways and Means.

The next Advisory Board meeting will not be until January, so if the Sager/Perrone legislation were to get through the Legislative process before November 19th, it would be held up by the Advisory Board if it was not on the November agenda. Staff would know by November 19th if the legislation passed and could pull the item from the agenda if it did not.

A Motion was made **TO APPROVE A JOINT SAGER ELECTRONICS/J. M. PERRONE CO., INC. OF HINGHAM, WASTEWATER SYSTEM EXPANSION REQUEST FOR A SEWER SERVICE CONNECTION TO THE TOWN OF WEYMOUTH**. It was seconded and passed by unanimous vote.

III. Discussion: Local Pipeline Assistance Program and I/I Grant/Loan Program

Mr. Favaloro stated that Carl Leone, MWRA Senior Program Manager, gave a presentation to the Operations Committee on both the water and wastewater loan programs and will be at the next Advisory Board meeting for a presentation as well.

There wasn't a lot of discussion on the water side; however, on the wastewater side the focus was on whether there should be a "Phase V" for the I/I Grant/Loan Program.

Ms. Dunphy sought a sense of whether the Executive Committee wants to fund a Phase V of the Program, knowing it will be part of the MWRA budget under the cap. Jay Fink, Chair of Operations, stated that the sense of communities that attended the Operations Committee meeting was favorable for additional funding; however, most of the communities in attendance had expended their funds. A number of communities have not used their funding, which leads to the question of whether those communities should be asked if they plan to use those funds and, if not, can the funding be opened up for others to use. It is something that needs to be resolved before deciding to cut into the capital projects, especially if there is money sitting there that may not be utilized.

Ed Sullivan noted that Canton would be supportive of further assistance, having used its allotment that just touched the tip of the iceberg on I/I. Canton also would like to find out if other communities will be using their funds and if funds are not used within a certain timeframe, whether these funds can be reallocated to other communities.

Lou Taverna stated that Newton intends to use the rest of its Phase IV monies and supports a Phase V. If these grant/loans weren't available, Newton would not be doing anything with the water and sewer systems. Newton fully supports a Phase V even if it is a no-interest loan only. Ed Sullivan stated that Canton would support the no-interest loan option as well.

Ms. Dunphy asked if Boston plans to use its money. John Sullivan responded in the affirmative, stating that Boston has four more I/I studies that will result in construction; however, Mr. Sullivan was sure that Boston wouldn't use up \$16 million right away. Ms. Dunphy asked if there were a "sunset provision" with a deadline, would Boston spend the funds by the deadline. Mr. Sullivan replied that it would take about seven years.

Mr. Pappastergion asked if Boston has used all of its funds from Phases I, II and III. Mr. Sullivan stated that Boston has used \$23 million, but was unsure how much came from each phase. Mr. Pappastergion stated that the Executive Committee should be looking at the communities who have never drawn any money over the four phases.

Mr. Favaloro stated that a sunset provision sounds good, but as soon as you try to implement it, there are problems. It would create an incentive for communities to spend their money; but for all the communities who haven't spent their funds, there may be good reasons why. Mr. Fink stated that a dialog is needed. Mr. Hadley stated that Lexington has benefited from the program and would support an extension.

Ms. Dunphy stated that the issue is that if money isn't being spent, then the work isn't being done and the system as a whole is not getting the benefit.

John Sanchez noted that Arlington has had projects ongoing for the last two to three years, including this year. None of it has been submitted for reimbursement yet.

Ms. Dunphy stated that a survey of communities should be done to find out what their status is and their plans for the next few years. If there is anything left from Phases I to IV, it could be redistributed; and if not, then a Phase V could be implemented.

Mr. Favaloro stated that the Operations Committee also suggested a survey. The Advisory Board distributed a survey to kick off the Phase IV discussion as well.

Ms. Potter stated that it is important to clarify the Advisory Board's intent now, as the Authority is preparing its FY05 capital budget to get it in the budget. Mr. Favaloro noted that the Authority is interested in what the communities want. MWRA is somewhat fearful in creating a number at the start of the CIP process in case communities reject it. The Authority doesn't want to make assumptions on additional funds for the program because there are funds that haven't been utilized yet. The Authority has also begun to ask if the grant/loan programs can be exempted from the cap.

Ms. Potter noted that if the funds for Phase V are not in the proposed budget or in the Advisory Board's comments, then a year will be lost for those communities.

Mr. Favaloro reported that Carl Leone, MWRA Senior Programming Manager, for the first time has begun to make the case that there is a relationship between the I/I program and reduced flows. There are multiple factors that lead to that direction; I/I reduction is one of them.

Ms. Dunphy suggested that a "placeholder" be entered into the capital budget that comes out in January with the understanding that the Advisory Board will have answers from the communities just prior to the review process. Mr. Favaloro noted that funds in Phase V couldn't be used until Phases I to IV are used. If only the 15 communities who have exhausted their funds from the first four phases use Phase V, the impact is relatively small, at least in first couple of rounds.

Mr. Pappastergion asked if most communities use this program to sell a project at their town meetings. Ed Sullivan stated that it certainly helps to show some contribution. Ms. Dunphy stated that it is also an advantage that town meeting members are reminded of the program from year to year to maintain momentum for the programs.

Mr. Fink stated that a study should be made on why water communities aren't doing something and, from a regional sense, is it bringing all the communities down by making other communities add chemicals because of their poor distribution practices.

The sense of the meeting is to issue a survey for both water and wastewater on what the needs are for the coming years.

A Motion was made **TO HAVE A PLACEHOLDER PUT INTO THE MWRA'S CAPITAL BUDGET FOR A PHASE V. THE MOTION WAS AMENDED THAT THE PLACEHOLDER BE THE SAME AMOUNT AS PHASE IV, \$40 MILLION.** Both Motions were seconded and approved by unanimous vote.

IV. Status: Memorandum of Understanding (MOU) Between the Division of Conservation and Recreation and MWRA

Discussions are ongoing between the Division of Conservation and Recreation (DCR), the Authority and the Advisory Board on how to handle watershed protection. The legislation to transfer the DCR to MWRA is going to sit in Committee without any action. Senator Brewer, the Vice-Chair of the Natural Resources Committee, is passionately opposed to the legislation; therefore, the best thing to do is to let it sit in Committee with a recommendation. With a negative recommendation, the initiative would be dead for two years.

Secretary Herzfelder has been pushing the concept of an MOU into discussion mode. In early November, Joe Favaloro sat in on a meeting with DCR, EOEA and MWRA regarding the MOU; there was discussion, but not much progress was made. The Administration is proposing the concept of a Statutory Trust that would be a binding agreement for watershed protection. There is no trust that serves all of the criteria that needs to be met. The state raided a previous trust when money was needed. Mr. Favaloro stated that he did not want to diminish the fact that the Administration is trying, but there is not going to be an easy solution.

Mr. Favaloro has had discussions with Robert Durand, through his consulting firm, Durand & Anastas, about being a third party to broker a deal amongst all parties. Mr. Durand is the former Secretary of Environmental Affairs, a former Senator and State Representative and an avid sportsmen and recreationist. He has a strong relationship with Senator Brewer and comes from central Massachusetts. If anyone can find some common ground, it would be him. Mr. Favaloro requested the Executive Committees' support to enter an agreement with Durand & Anastas to be the Advisory Board's "hired gun" as relates to changing the culture at the watershed division to some relationship that makes them separate from state government. A resolution is a critical step. Bob Durand brings some important skills in negotiating a resolution to the watershed issue.

The next legitimate question is a) what is it going to cost and b) where do we have the money to do it? In discussions with Bob Durand, a timeline of January to June was identified. The engagement would not be cheap, but cheap in comparison of the end result. It would be in the vicinity of \$6,000 per month, with the total between \$30,000 to \$40,000. The Advisory Board has a Legal Fund, which can be, by vote of the Executive Committee, utilized for outside activities.

The Advisory Board sent letters to the Administration in August and September requesting that the MWRA be included in the development of plans for DCR. On November 7, via fax, the Administration responded to the Advisory Board's request for the Authority to participate in the transition team. Secretary Herzfelder stated that she

would not allow an outside entity to participate in the discussion on the transition team and that a filtration plant may have to be built no matter what. Mr. Pappastergion noted that the outside entity is paying the bill.

Bob Durand could help us resolve these issues and could be brought in on an as needed basis.

Ed Sullivan asked if a document would be needed to hand to Durand & Anastas on what the Advisory Board's goals are. Mr. Favaloro noted that staff will work on a scope of services, but didn't want to go too far without knowing if the Executive Committee was comfortable with it.

Mr. Hadley asked what the balance is in the Legal Fund. Mr. Favaloro stated that the balance is approximately \$44,000, which sits in a segregated account and can only be utilized by a vote of the Executive Committee.

Lou Taverna asked how confident staff is that on June 30 there would be a resolution. Mr. Favaloro stated that there is a desire on many parts to resolve this. Senator Brewer stated that he is opposed to the transfer and that he wants an MOU to work. He will do whatever is in his power to make the watershed operations work. There is a legislative component that wants resolution. The Senate President and the Majority Leader want this resolved. If it wasn't for Senator Brewer, they would be with us now for the transfer, but he is a major part of their leadership team and they want him to be happy. If we don't have a resolution by June 30, the reality is that anything Bob Durand could do would have been done, so we would have the benefit of his words and input, but at that point it wouldn't be feasible to continue with the consultant.

John Sullivan asked how the Legal Fund is replenished. Mr. Favaloro responded: 1) have the Authority participate in the costs to reduce the Advisory Board's exposure; 2) through the budget, the Advisory Board can request additional funds; 3) Don't replenish the account and make requests as needed.

Mr. Fink made a Motion **TO AUTHORIZE THE ADVISORY BOARD TO ENTER INTO A CONTRACT WITH DURAND & ANASTAS**. Ed Sullivan amended the Motion **THAT THE CONTRACT WITH DURAND & ANASTAS NOT EXCEED \$40,000**. Both Motions were seconded and passed by unanimous vote.

V. Update: Affordability Study for CSOs

Mr. Favaloro stated that the Advisory Board has been "preaching" affordability at the Authority. MWRA received a letter relating to Fort Point Channel from Robert Varney, EPA Regional Administrator, talking about taking a holistic approach on CSO issues. At a meeting with Mr. Varney's staff, the Authority was chastised because EPA didn't appreciate the last round of affordability analysis. EPA staff stated that based on their analysis, the MWRA can afford to spend upwards of another \$3 billion on CSOs.

Advisory Board staff continues to press the Authority that the affordability analysis is critical. The Authority has begun discussions with a potential candidate to gauge interest

in taking on the study. This process is moving far too slowly. Staff will continue to keep the pressure on the Authority to begin this engagement.

In the event that these discussions are not productive, the Advisory Board has begun discussions with MassInsight, which has done a lot of analysis on many different economic indicators. Bill Guenther, MassInsight President, has a good deal of credibility. Staff will be sitting down with him the first week of December to see if MassInsight may be interested.

If the Authority hasn't moved on an expert, Advisory Board staff may be coming back to the Executive Committee to request that the Advisory Board do it. Regional data that shows the reality of the affordability situation must be available.

VI. Evaluation of Executive Director

Mr. Favaloro stated that the last process of evaluation for the Executive Director's position was in November 2002. The current contract expires in June 2004.

John Sullivan suggested that a sub-Committee made up of Executive Committee members that have regular dealings with Mr. Favaloro be formed to come up with high and low points that the rest of the members can comment on.

Ms. Dunphy stated that the evaluation would be placed on the agenda for January. If a sub-Committee meeting has not been held, members can stay after the meeting.

VII. Approval of the Advisory Board Agenda for November 20, 2003

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE NOVEMBER 20, 2003 MEETING**. It was seconded and passed by unanimous vote.

VIII. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 10:00 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary